IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 103 of 2006

NATHUPURI & ANR
V/S
LRS OF CHOTUPURI & ORS

Mr. RS CHOUDHARY, for the appellant / petitioner

Date of Order : 27.7.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant.

The respondents filed the suit for injunction, alleging, that they have ancestral house and thala, and about 20 years back, they had given the portion marked "ABCD" in the site plan to defendant Gumannath, thereon he had constructed a Parwa and Jhumpa, and was in permissive possession upto Samvat 2027. However, in Samvat 2027, he delivered back the possession to the plaintiffs, and since then they are in possession. With this, it is alleged that on 2.9.81, the defendants forcibly grabbed the land, and erected a Jhumpa and a Chapara. A criminal case was lodged for this. With these averments, it was prayed that the land be declared to be their property, decree for possession be passed, and he defendants be restrained from interfering with their possession. The defendants, Gumannath and Ramapuri submitted admitting written-statement, while defendant Cheni and Manni did not file any written-

statement. However, the appellants being defendants No.1 and 6 contended that the land belonged to Gumannath, who has sold it to these defendants, and the defendant No.6 having separated from defendant No.1, constructed a Jhumpa and Chapara on the purchased land, and is using this land. It was also contended that the land was not given to Gumannath by way of permissive possession, but it belonged to Gumannath, who sold it to defendant No.6. It is pleaded that the criminal case has terminated in their favour.

Both the learned Courts below have found that it was some 30 years ago that Gumannath had come in the village to reside, and the plaintiff Chotupuri and Bhallapuri had given the land to Gumannath, who delivered back the land to the plaintiffs, while leaving, and there is no reason to disbelieve the plaintiff's evidence, so much so that Gumannath has himself appeared as P.W.6, who has denied to have sold land to the contesting defendant. Thus, the issue has been decided against the appellant, and consequently other issues have also been decided, and the suit has been decreed. Learned lower Appellate Court has affirmed these findings.

In my view, these findings are pure findings of fact. It is again a different story that learned counsel informs that the document of purchase in the appellants' favour is an unregistered document on stamp paper worth Rs.5/-, which obviously cannot confer any right, title or interest on the appellant, and since the defendant claims

to have purchased the land on 10.7.99, from which date, even possessory title did not mature.

Thus, I do not find any error in the findings of the learned Courts below. The appeal consequently does not involve any substantial question of law, and the same is, therefore, dismissed summarily.

(N P GUPTA),J.

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